

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

Crl.Rev.Pet.No. 747 of 2011 ()

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AGAINST THE JUDGMENT IN CRL.A 725/2009 OF ADDITIONAL SESSIONS COURT
(ADHOC)-II, ERNAKULAM DATED 15-12-2010**

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AGAINST THE JUDGMENT IN CC 98/2004 OF CHIEF JUDICIAL MAGISTRATE,
ERNAKULAM DATED 16-10-2009
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REVISION PETITIONER(S)/APPELLANTS/ACCUSED 1 TO 3::

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- 1. C.M.SHANAVAS, CHIEF EDITOR,
AGED 54 YEARS, S/O.MUHAMMED, PRINTER & PUBLISHER
CRIME REPORT, PEIRYAR GROUP OF PUBLICATIONS
P.B.NO.153, ALUVA.**
 - 2. EROOR G.GIREESH, AGED 30 YEARS,
S/O.SASIKUMAR, EDITOR, CRIME REPORT
PERIYAR GROUP OF PUBLICATIONS, P.B.NO.153, ALUVA.**
 - 3. NASIR MANAYIL, AGED 37 YEARS,
S/O.ABDULLA, REPORTER, CRIME REPORT
PERIYAR GROUP OF PUBLICATIONS, P.B.NO.153, ALUVA.**

**BY ADVS.SRI.C.ANILKUMAR (KALLESSERIL)
SRI.C.Y.VINOD KUMAR**

RESPONDENT(S)/RESPONDENTS-COMPLAINANT & STATE::

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- 1. PREETHAKUMARI, AGED 54 YEARS
W/O.SASTHEESAN, SRUTHILAYAM VEETIL, KAITHARAM P.O.
N.PARAVOOR-683 519.**
 - 2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.**

**R1 BY ADV. SRI.JACOB GEORGE (PARAVUR)
R2 BY ADV.SRI.N.SURESH, PUBLIC PROSECUTOR**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
05-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

K.RAMAKRISHNAN, J

CRL.R.P.NO.747 OF 2011

Dated this the 5th day of March, 2015

O R D E R

The revision petitioners are accused Nos.1 to 3 in CC.No.98/2004 on the file of the Chief Judicial Magistrate Court, Ernakulam. The case was taken on file on the basis of a private complaint filed by the first respondent herein, against the revision petitioners and another alleging offences under section 500 and 501 of the Indian Penal Code in respect of defamatory matter published in their publication. After trial, the trial court found all the accused including the revision petitioners guilty under section 500 and 501 of Indian Penal Code and convicted them thereunder and sentenced them to undergo simple imprisonment for six months each for the offence under section 500 and 501 of Indian Penal Code and further sentenced to pay a fine of Rs.20,000/- each in default to undergo simple imprisonment for three months for the offence under section 500 of the Indian Penal Code and directed the sentences to run concurrently and further directed to pay fine amount if realised as compensation to the complainant under section 357(1) (b) of the Code of Criminal Procedure. Aggrieved by the same, the revision petitioners filed Crl.Appeal No.725/2009 before the Sessions Court, Ernakulam, and the same was made over to

Additional Sessions Court(Adhoc-II), Ernakulam for disposal and the learned Additional Sessions Judge by the impugned judgement dismissed the appeal and confirming the order of conviction and sentence passed by the trial court against the revision petitioners. Aggrieved by the same, the present revision has been filed by the revision petitioners who were the accused Nos.1 to 3 in the court below.

2. During the pendency of the revision petition the matter has been settled between the revision petitioners and the complainant and they filed the CMA.NOs.1219/2015 and 1220/2015 for record compounding and also for permission to compound and this court today allowed those applications and permission was granted and compounding was recorded. There is no bar for compounding the offence in respect of certain accused persons alone, especially when the offence alleged are compoundable even without permission of the court under section 320(1) of the Code of Criminal Procedure. But if ended in conviction that can be done only with the permission of the court under section 320(6) of the Code of Criminal Procedure. Once the compounding is recorded, then it will have the effect of deemed acquittal under section 320(8) of the Code of Criminal Procedure and that benefit must be given to the revision petitioners. So, the revision petition is allowed and the

order or conviction and sentence passed by the Chief Judicial Magistrate, Ernakulam in CC.No.98/2004 and confirmed in Crl.Appeal No.725/2009 of Additional Sessions Court (Adhoc-II), Ernakulam, as against the revision petitioners are set aside and they are acquitted under section 320(8) giving him the benefit of deemed acquittal under that section on account of recording of composition. The bail bond executed by them will stand cancelled and they are set at liberty. The amount, if any deposited by the revision petitioners towards fine either before the Sessions Court or before the trial court, is directed to be refunded to the revision petitioners on making necessary applications before the respective courts. Office is directed to communicate this order to the concerned court immediately.

Sd/-
K.RAMAKRISHNAN, JUDGE

R.AV

//True Copy//

PA to Judge